

**REMARKS**

The present communication is responsive to Official Action mailed February 27, 2006, rejecting all the claims then pending in the application, namely claims 1-28. Of these claims, claims 1, 10, 19 and 20 are independent. As a result of the present amendment, claims 29-53 have been cancelled and claims 54-60 have been added. Of the newly added claims, claim 54 is independent. All the other claims currently pending in the application depend from one of the independent claims.

The preamble of claim 19 has been amended to now recite "A computer readable medium having computer-executable instructions for performing a method for coding image data." Support for the foregoing amendments to claim 19 may be found by reference to, for example, paragraph [0213] of the written description.

Claim 20 has been amended to now recite "A computer-readable medium having stored thereon a data structure comprising: a data recording area containing data representing a video stream converted by a predetermined conversion process, multimedia coding data, and additional information representing a display mismatch derived from a relationship between said converted video stream and said multimedia coding data." Support for the foregoing amendments to claim 20 may be found by reference to, for example, paragraphs [0213] and [0111] of the written description.

Claims 21-28 have been amended to improve their form in view of the amendments to claim 20.

Claims 54-60 are presented for the first time. Support for these claims may be found by reference to, for example, FIG. 3 and its accompanying description, as well as paragraph [0109]-[0111] of the written description.

Applicant respectfully submits that the foregoing amendments to the claims and the inclusion of new claims 54-60 do not add new matter to the application.

The Examiner rejected claims 19-28 under 35 U.S.C. §101 "because the claims are directed to a recording medium storing non-functional descriptive material." (Official Action 2.) With regard to claim 19, the Examiner states "data structure that does not have any practical application that produces useful, tangible and concrete results are descriptive material per se and are not statutory because they are neither physical 'things' nor statutory processes." (*Id.*) With regard to claims 20-28, the Examiner states that the "data structures are not claimed as embodied in computer-readable media" and therefore "do not have [a] practical application that produces useful, tangible and concrete results." (*Id.*, 3.)

Claim 19 has been amended to now recite in its preamble "A computer readable medium having computer-executable instructions for performing a method for coding image data." Claim 20 has been amended in its preamble to now recite "A computer-readable medium having stored thereon a data structure."

Applicant respectfully submits that in view of the amendments to claims 19 and 28, these claims now meet the requirements of 35 U.S.C. §101. In particular, "When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Compare *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994) (claim to data structure stored on a computer readable medium that increases computer efficiency held statutory) and *Warmerdam*, 33 F.3d at 1360-61, 31 USPQ2d at 1759 (claim to computer having a specific data

structure stored in memory held statutory product-by-process claim)." (MPEP §2106.IV.B.1, 2001-12.) As such, applicant respectfully requests withdrawal of the rejections of claims 19 - 28 as being drawn to non-statutory subject matter.

The Examiner rejected all the claims then pending in the application, namely claims 1-28, under 35 U.S.C. §102(b) as being anticipated by the article by Hori, et al. entitled "Annotation of Web Content For Transcoding" (hereinafter "*Hori*"). Applicant respectfully traverses the Examiner's rejection of the claims over *Hori*. More particularly, applicant respectfully submits that *Hori* does not disclose or suggest "generating additional information indicating that a mismatch will occur when said converted video stream is displayed on the basis of said multimedia coding data," as is recited for example in claims 1, 10 and 19.

In general, *Hori* proposes and describes a method and system for adapting content data for devices that may not have the same rendering capabilities or network connecting capabilities as a desktop client. (*Hori*, Abstract, ¶1.) *Hori*'s proposal is described in the context of a WEB environment and focuses on allowing PDAs, cell phones, and appliances that typically do not have the processing capability of a desktop computer to process the same WEB content.

More specifically, *Hori* states that "An original HTML document, authored for a specific client such as PC, can be augmented with annotations, with provide hints for adapting the document to the other client devices." (*Id.*, Introduction ¶2) *Hori* also refers to the method of content adaptation as transcoding (*Id.* ¶1.) In particular, the annotations "provide hints for a transcoding policy to make better decisions on content adaptation given the devices' characteristics." (*Id.*, ¶2.)

Although *Hori* discloses a number of different types of annotations, he does not mention an annotation that will indicate that a mismatch may occur when a video stream is displayed on a device. Such is the case because in *Hori's* schema, the annotations are device specific. Thus, the WEB content is always adapted for the device on which it will be displayed. In that regard, *Hori* discloses a selection criteria tag "clientCapability." This tag "specifies the hardware or software capabilities of a client device that an alternative is suitable for." (*Id.*, See Section 3.3.) *Hori* is clear in stating that: "The transcoding proxy chooses the alternative for which the pcd: clientCapability is closest to the requested client device." (*Id.*) Thus, in *Hori's* schema, mismatches are not contemplated since the content information is always adapted to appear as it would on the closest client device.

In fact, *Hori's* examples make it clear that different profiles are stored for different devices and therefore there is no need for a mismatch indicator or flag. (*Hori*, catalog.meta annotation 7-8). In fact, in describing this catalog.meta annotation, *Hori* states: "It contains a RDF description specifying alternate version of the original catalog.html page for various client devices." (*Id.* 7.) It is further telling that in the example that *Hori* shows on pages 8-9 relating to video that has different bit rates, there is no mention of a mismatch tag of any sort. Applicant respectfully submits that this is the case because in *Hori's* schema, the content information is specifically adapted for each device and therefore *Hori* is not at all concerned with a possible mismatch between the WEB content and a device.

In addition, *Hori's* disclosure clearly does not suggest tracking mismatches that may occur between a video stream and coding data associated with video stream. Such is

clearly the case since *Hori* does not even contemplate that such a problem may exist.

Therefore applicant respectfully submits that claim 1 is not anticipated by *Hori* as this claim recites "generating means for generating additional information indicating that a mismatch will occur when said converted video stream is displayed on the basis of said multimedia coding data."

Applicant also respectfully submits that claims 10 and 19 are also not anticipated by *Hori* as they recite "generating additional information indicating that a mismatch will occur when said video stream is displayed on the basis of said multimedia coding data."

Applicant also respectfully submits that claim 20 is not anticipated by *Hori* as it recites "additional information representing a display of mismatch derived from a relationship between said converted video stream and said multimedia coding data."

Claim 54 is also not anticipated by *Hori* as it recites "display control information including a mismatch flag which indicates that a display mismatch condition exists between the video data and multimedia coding data."

Applicant further respectfully submits that the additional reference cited but not relied on by the Examiner, i.e., US Patent 6,900,845 to Christopher, et al. ("*Christopher*"), does not make up for the deficiencies in *Hori*. Therefore, *Christopher* and *Hori* cannot be combined in a matter to render the claims of the present application obvious.

In view of the foregoing, applicant respectfully submits that independent claims 1, 10, 19, 20 and 54 are not anticipated or rendered obvious by the references of record for at least foregoing reasons. As all the other claims in the application depend from one of these independent claims, applicant further respectfully submits that the other claims are

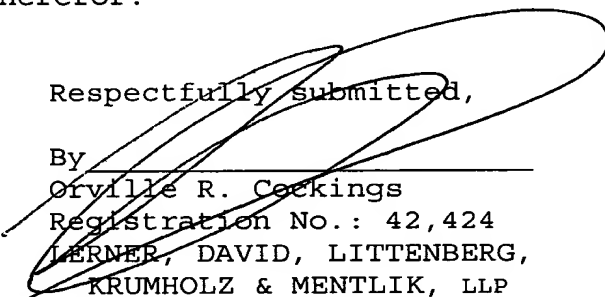
also not anticipated or rendered obvious for at least the foregoing reasons.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited. If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that she telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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Respectfully submitted,

By   
Orville R. Cockings  
Registration No.: 42,424  
LERNER, DAVID, LITTENBERG,  
KRUMHOLZ & MENTLIK, LLP  
600 South Avenue West  
Westfield, New Jersey 07090  
(908) 654-5000  
Attorney for Applicant